IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Bail Appl..No. 5810 of 2007()

CRIME NO.1070/04 OF KOTTARAKKARA POLICE STATION.

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: PETITIONERS/ACCUSED NOS. 1 TO 5

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1. BINU @ BINOY,
   S/O.LEKSHMANAN,UDIYANNOOR VEEDU,
   VELLARAKUNNU LEKSHAM VEEDU COLONY,
   PALLICKAL KIZHAKKU MURI,MYLOM VILLAGE,
   KOTTARAKARA.

2. SUNILKUMAR @ SUNIL,
   S/O. MURALEEDHARAN PILLAI,KOLLANTAZHIKATHU VEEDU,
   NEAR S.D.A. CHURCH, INCHAKKADU THEKKU MURI,
   MYLOM VILLAGE.

3. SHAJI @ PRIJU,S/O. PRAKASH,
   AMBIKA BHAVAN, VELLARAKKUNU LEKSHAM VEEDU COLONY,
   PALLICKAL KIZHAKKU MURI,MYLOM VILLAGE
   KOTTARAKARA.

4. BINU JOHN,
   S/O. JOHNKUTTY, NELLYVILA VEETTIL,
   NEAR S.D.A.CHURCH,INCHAKKADU THEKKU MURI,
   MYLOM VILLAGE ,

5. RATHEESH,
   S/O. RAJANPILLAI,
   REMYA BHAVAN,NEAR MADATHIKAVU TEMPLE,
   INCHAKKADU MURI,MYLOM VILLAGE .

BY ADV. SRI.ALEXANDER GEORGE
SRI.DILIP MOHAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY ITS
   DIRECTOR OF PUBLIC PROSECUTION
   HIGH CORUT OF KERALA, ERNAKULAM.

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2. THE SUB INSPECTOR OF POLICE
KOTTARAKARA POLICE STATION,
KOLLAM DISTRICT.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5810 OF 2007

Dated this the 4th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1, 2, 4, 5 and 6 in a crime registered for offences punishable, inter alia, under Secs.326 and 308 of the IPC. The alleged incident took place on 5/10/06. The petitioners apprehend imminent arrest.

2. The learned Public Prosecutor submits that the investigation is already complete. Final report was filed as early as on 14/12/06. There are no circumstances justifying the invocation of the discretion under Sec.438 of the Cr.P.C. The petitioners may be directed to surrender before the learned Magistrate and seek regular bail in the ordinary course.

3. Having considered all the relevant circumstances, I

find the opposition by the learned Public Prosecutor to be absolutely justified. I find no features in this case which would warrant or justify the invocation of the jurisdiction under Sec.438 of the Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioners must resort to the ordinary and normal course of appearing before the learned Magistrate and seek regular bail.

4. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge